

BOARD OF APPEALS CASE NO. 4824

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BEFORE THE

APPLICANT: Seth C. Holbrook, III

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ZONING HEARING EXAMINER

**REQUEST: Variance to construct a deck
within the required rear yard setback;
808 Tiffany Trail, Abingdon**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 6/3/98 & 6/10/98

HEARING DATE: July 22, 1998

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Record: 6/5/98 & 6/12/98

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Seth C. Holbrook, III, appeared before the Hearing Examiner requesting a variance to Section 267-36(B), Table V, and Section 267-23(C)(1)(a)(6) of the Harford County Code, to construct a deck within the required 26 foot rear yard setback in an R2/COS District.

The subject parcel is located at 808 Tiffany Trail in the First Election District. The parcel is identified as Parcel No. 625, in Grid 2-B, on Tax Map 62. The parcel contains .233 acres, more or less, all of which is zoned R2/COS/NRD.

Mr. Seth Holbrook, III, appeared and testified that he is requesting a variance to construct a deck with dimensions of 24 feet by 32 feet. The witness said that at the closest point the deck would be 15 feet from the rear property line. The Applicant said the subject parcel is unique because of the unusual shape of the subject parcel. The witness said that the rear property line is diagonal to the front property line and that if the parcel were rectangular in shape, the variance would not be necessary. The witness also said that there is a wooded area to the rear of the parcel which also contains a Natural Resource District and, therefore, cannot be developed.

The Applicant said he did not feel the variance would have an adverse impact on adjoining properties because the parcel to the rear of the subject parcel cannot be developed because of the existence of the Natural Resource District.

No protestants appeared in opposition to the Applicant's request and the Staff Report of the Department of Planning and Zoning recommends conditional approval.

Case No. 4824 - Seth C. Holbrook, III

CONCLUSION:

The Applicant is requesting a variance to Section 267-36(B), Table V, of the Harford County Code, which requires a 26 foot rear yard setback.

The Applicant is also requesting a variance to Section 267-23(C)(1)(a)(6), which provides:

Exceptions and modifications to minimum rear yard requirement.

Encroachment. The following structures shall be allowed to encroach into the minimum yard setback, not to exceed the following dimensions:

[6] Unenclosed patios and decks: up to, but not to exceed, twenty-five percent (25%) of the side or rear yard requirement for the district.

No accessory structure shall be located within any recorded easement area.

The uncontradicted testimony of the Applicant was that the subject parcel is unique because of its unusual shape. The Applicant testified the rear property line is diagonal to the front line and if the side yard depths were equal, the variance would not be necessary. The Applicant also testified that he did not feel the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code because of a wooded area and Natural Resource District to the rear of the property.

It is the finding of the Hearing Examiner that the subject parcel is unique for the reasons stated by the Applicant in his testimony and, further, that approval of the requested variance will not be substantially to adjacent properties or materially impair the purpose of the Code.

Therefore, it the recommendation of the Hearing Examiner that the requested variance be approved, subject to the condition that the Applicant obtain all necessary permits and inspections for the deck.

Date AUGUST 6, 1998

L. A. Hinderhofer
Zoning Hearing Examiner